

## **EXHIBIT 3**

S T A T E O F M I C H I G A N  
IN THE 67TH DISTRICT COURT FOR THE COUNTY OF GENESEE

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

D.C. File No. 16TA-927-FY

V

Judge: MANLEY

STEPHEN BENJAMIN BUSCH,

Defendant.

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

D.C. File No. 16TB-927-FY

V

Judge: MANLEY

MICHAEL PRYSBY,

Defendant.

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

D.C. File No. 16TB-1685-FY

V

Judge: MANLEY

LIANE SHEKTER-SMITH,

Defendant.

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

D.C. File No. 16TC-1685-FY

V

Judge: MANLEY

PATRICK COOK,

Defendant.

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PRELIMINARY EXAMINATION - VOLUME XIX

BEFORE THE HONORABLE JENNIFER MANLEY, DISTRICT JUDGE

Flint, Michigan, Monday, October 29, 2018

APPEARANCES:

For the People:

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1           Okay. All right.

2 BY MR. FLOOD:

3 Q       So my question is did LAN, Lockwood, so we're all awake here,  
4       did they recommend, if you know, to the M-D-E-Q, who is  
5       telling you what must be done, did they recommend using lime  
6       soda ash, a full soda ash system?

7 A       Yes.

8 Q       Was it a full lime soda ash system when you turned it on in  
9       April of 2014?

10 A       No.

11 Q       Did LAN recommend to you and the M-D-E-Q, Mr. Busch and Mr.  
12       Prysby, that they use some sort of inhibitor for corrosion  
13       control?

14 A       Yes.

15 Q       Was that an orthophosphate?

16 A       I believe so, yes.

17 Q       Did you, when you turned the plant on, follow the  
18       recommendation or did the M-D-E-Q, I'm sorry, strike that,  
19       poorly, poorly stated. Did the M-D-E-Q, Mr. Busch or Mr.  
20       Prysby, um, mandate that you use orthophosphate or an  
21       inhibitor for, uh, corrosion control?

22 A       They did not.

23 Q       I'm gonna go to number six, provide assistance and training,  
24       slash support, to the Flint water plant staff on implementing  
25       the test run protocol, do you see that?

1 THE COURT: Yes, you may continue.

2 MR. FLOOD: Thank you.

3 BY MR. FLOOD:

4 Q So the contract, contractor worked with you and the  
5 Department of Environmental Quality, yes?

6 A Yes.

7 Q Who had the final decision, who made the final decisions on  
8 the protocol of running and updating the plant?

9 A The D-E-Q told us what we have to do for the test run.

10 Q So it's the Department of Environmental Quality, and would  
11 that be Mr. Busch or Mr. Prysby?

12 A Yes.

13 Q Whether--

14 A Both.

15 Q Or not you did these certain things that Mr. Larene was  
16 walking through, he was just walking through one, see this up  
17 here, one, meet with Flint water treatment staff, right?  
18 Down here, develop plant test run protocol, for submission to  
19 the M-D-E-Q--

20 Q Yes.

21 A Correct?

22 A Yes.

23 Q Now, the M-D-E-Q, they were in essen--they were managing you?

24 MR. SMIETANKA: Your Honor, I'm gonna object, it's  
25 lead.

1 MR. FLOOD: Okay.

2 MR. SMIETANKA: He's been leading--

3 THE COURT: Objection sustained.

4 MR. SMIETANKA: This has been a lot of leading--

5 THE COURT: Okay.

6 MR. FLOOD: A lot--

7 MR. SMIETANKA: Now, I--

8 MR. FLOOD: Of it.

9 MR. SMIETANKA: Must start to object--

10 THE COURT: Okay. The--

11 MR. SMIETANKA: Every time.

12 THE COURT: Okay. Objection sustained to leading.

13 Please rephrase. That was leading.

14 MR. FLOOD: I just wanna say something but I'm  
15 holding myself back.

16 THE COURT: All right.

17 MR. FLOOD: Just give me--

18 THE COURT: Ask your--

19 MR. FLOOD: A second.

20 THE COURT: Question.

21 MR. LARENE: Always a good practice, Mr. Flood.

22 MR. FLOOD: No, it's--

23 BY MR. FLOOD:

24 Q So, uh, as it relates to these four, five, and six, do you  
25 see those?

1 A Yes.

2 Q Who, who would ultimately get the final say so on whether or  
3 not you did those things?

4 MR. LARENE: I, I, I'm going to object to the--

5 MR. FLOOD: Now--

6 MR. LARENE: Form of the question. If this is a  
7 proposal for a contract--

8 MR. FLOOD: Mmm-mmm.

9 MR. LARENE: Uh--

10 MR. FLOOD: It's--

11 MR. LARENE: I mean, the--

12 MR. FLOOD: (inaudible)

13 MR. LARENE: Did those things, who gets the final  
14 say so on whether L-A-N would develop plant test--

15 MR. FLOOD: So I--

16 MR. LARENE: Run protocols--

17 MR. FLOOD: I'll clear it up.

18 MR. LARENE: (inaudible)

19 MR. FLOOD: Let me withdraw.

20 THE COURT: All right.

21 MR. FLOOD: I'll just clear it up.

22 BY MR. FLOOD:

23 Q The, the--who had to approve the operation of the plant?

24 A The D-E-Q.

25 Q What was the purpose of LAN with regards to the contract and



1 the D-E-Q? Tell the Judge how the process works?

2 A The L-A-N would design and oversee the management or the  
3 construction of the systems and processes the D-E-Q said we  
4 had to have.

5 Q Okay. So the D-E-Q, would that be Mr. Busch and Mr. Prysby  
6 would say certain things you had to have?

7 A Yes.

8 Q And LAN would oversee it?

9 A They would des--do the design work behind that.

10 MR. SMIETANKA: Your Honor--

11 MR. FLOOD: Okay.

12 MR. SMIETANKA: Again--

13 MR. FLOOD: I, I--

14 MR. SMIETANKA: Objection, leading.

15 MR. FLOOD: Oh, well, who would--

16 THE COURT: Objection--

17 MR. FLOOD: Oversee it?

18 THE COURT: Sustained.

19 BY MR. FLOOD:

20 Q Who would oversee it? Let me take some time here, who would  
21 oversee it?

22 A (No audible response)

23 Q D-E-Q or LAN?

24 A D-E-Q was the regulatory agency who would say what we had to  
25 do. L-A-N would design those systems to make it do that.